

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**JENNIFER MIZELL, MARIA
PAULDING, KATHLEEN PEAPPLES,
VICTORIA ROSS, and NATHAN
SIMPSON, individually and on behalf of
those similarly situated,**

Plaintiffs,

v.

**THE UNIVERSITY OF PITTSBURGH
MEDICAL CENTER,**

Defendant.

Civil Action No. 1:24-cv-00016-SPB

Electronically Filed

**JOINT MOTION FOR LEAVE TO PRESENT ORAL ARGUMENT
ON UPMC’S MOTION TO DISMISS AND MOTION TO STRIKE**

The Parties respectfully request an opportunity to present oral argument to address UPMC’s Motion to Dismiss the Amended Complaint (ECF No. 36) (“Motion to Dismiss”) and Motion to Strike Class Allegations Pursuant to Fed. R. Civ. P. 23 (ECF No. 35) (“Motion to Strike”).

In further support, the Parties state as follows:

1. On May 23, 2024, Plaintiffs filed an Amended Class Action Complaint (“Amended Complaint”) on behalf of a proposed class defined in the Amended Complaint as “Skilled Healthcare Workers.” *See* ECF No. 31.

2. The Amended Complaint asserts antitrust claims under Section 2 of the Sherman Act for alleged use and attempted use of monopsony power in the market for Skilled Healthcare Workers.

3. On July 22, 2024, UPMC filed the Motion to Dismiss under Rule 12 asking the Court to dismiss the Amended Complaint in full for failure to adequately plead the elements of a timely Sherman Act Claim, and the Motion to Strike under Rule 23 asking in the alternative for the Court to dismiss Plaintiffs' class allegations.

4. On September 5, 2024, Plaintiffs filed responses in opposition to UPMC's Motion to Dismiss and Motion to Strike. *See* ECF Nos. 42, 44.

5. In addition, on September 30, 2024, the United States filed a 23-page Statement of Interest stating that the "pending motion to dismiss (ECF No. 36) raises significant questions of interest to the United States." *See* ECF No. 50 at 2.

6. On October 7, 2023, UPMC filed a reply brief in support of its Motion to Strike addressing Plaintiffs' arguments. *See* ECF No. 53. On October 23, 2023, UPMC filed a reply brief in support of its Motion to Dismiss addressing arguments raised by Plaintiffs and the United States. *See* ECF No. 55.

7. In all of their filings on both motions, the Parties have included a request for oral argument.

8. Between the Amended Complaint and fully briefed motions, there are nearly 200 pages of allegations and legal argument before the Court addressing a variety of different issues and doctrines.

9. The Parties respectfully submit that selecting this matter for oral argument would provide the Parties an opportunity to present the issues efficiently to the Court and address any questions the Court may find helpful.

WHEREFORE, the Parties request leave to present oral argument to address UPMC's Motion to Dismiss and Motion to Strike. A proposed Order is attached.

Respectfully submitted,

Dated: November 8, 2024

/s/ Austin B. Cohen

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CERTIFICATE OF SERVICE

I hereby certify that this Motion for Leave to Present Oral Argument was filed and served on counsel of record via the United States District Court for the Western District of Pennsylvania's CM/ECF system.

Dated: November 8, 2024

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